

KOBAYASHI, SUGITA & GODA

LEX R. SMITH 3485-0
THOMAS H. YEE 7344-0
First Hawaiian Center
999 Bishop Street, Suite 2600
Honolulu, Hawaii 96813
Telephone No.: (808) 539-8700
Facsimile No.: (808) 539-8799
Email: trs@ksqlaw.com

KIRKLAND & ELLIS LLP

MICHAEL E. BAUMANN (CA Bar No. 145830)
DAMIAN D. CAPOZZOLA (CA Bar No. 186412)
R. OLIVIA SAMAD (CA Bar No. 228611)
777 Sough Figueroa Street
Los Angeles, CA 90017
Telephone No.: (213) 680-8400
Facsimile No.: (213) 680-8500
Email: mbaumann@kirkland.com

Attorneys for Defendant
POST-CONFIRMATION TRUST

LYLE S. HOSODA & ASSOCIATES, LLC

LYLE S. HOSODA 3964-0
RAIN P.B. MEAD 7329-0
345 Queen Street, Suite 804
Honolulu, Hawaii 96813
Telephone: (808) 524-3700
Facsimile: (808) 524-3838
E-mail: lsh@hosodalaw.com

Attorneys for Defendants
MARK DILLON, TERESA NOA, MELVIN PONCE,
SONIA PURDY, JUSTIN FUKUMOTO,
ALFREDDA WAIOLAMA, and JACQUELINE RIO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

DEFENDANTS' JOINT EVIDENTIARY OBJECTIONS
TO PLAINTIFF'S SUPPLEMENTAL EXHIBITS

EVIDENTIARY OBJECTIONS

NO.	PLAINTIFF'S DESCRIPTION	OBJECTION
95	Supplemental Declaration of Mark Dillon dated 8-10-03	Objection as to relevance. Does not go to the issue of damages. Fed. R. Evid. 401, 402, 403.
96	Request for Verification of Employment	Objection as to hearsay and relevance. Does not help the trier of fact on damages. Fed. R. Evid. 401, 802.
97	API, Inc. Payroll Analysis 1995	Objection as to hearsay and relevance. Does not help the trier of fact on damages. Fed. R. Evid. 401, 802.

NO.	PLAINTIFF'S DESCRIPTION	OBJECTION
98	Borja Personal Financial Statement	Objection as to hearsay and relevance. Does not help the trier of fact on damages. Fed. R. Evid. 401, 802.
99	API, Inc. Time Worked Register 1999	Objection as to hearsay and relevance. Does not help the trier of fact on damages. Fed. R. Evid. 401, 802.
100	Summary of Voluminous Records with Backup API Check Registers	Objection as to hearsay and relevance. Does not help the trier of fact on damages. Fed. R. Evid. 401, 802.
101	Money from freight allowances going to Merchant	Objection as to hearsay, authenticity and relevance. Outside period of infringement. Fed. R. Evid. 104, 401, 802, 901.
102	Ron Hatch with attached Christensen to Staff re Kmart	Objection as to hearsay, authenticity and relevance. Outside period of infringement. Fed. R. Evid. 104, 401, 802, 901.
103	Christensen with Did they terminate the license attached from Computer	Objection as to hearsay, authenticity and relevance. Does not assist the trier of fact on damages. Fed. R. Evid. 104, 401, 802, 901. Objection as to attorney-client privilege/common interest privilege. Fed. R. Evid. 501.
104	Moving KMart violates license from Computer from Kmart	Objection as to hearsay, authenticity and relevance. Does not go to the issue of damages. Fed. R. Evid. 401, 802, 901.
105	New Owners Won't Stop Us from Inbox3	Objection as to hearsay, authenticity and relevance. Outside period of infringement. Does not go to the issue of damages. Fed. R. Evid. 401, 802, 901.

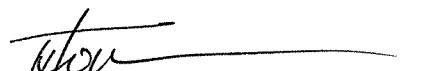
NO.	PLAINTIFF'S DESCRIPTION	OBJECTION
106	Noa to Hatch Aloha and T to Hatch Aloha and TAG from Tag/Detention	Objection as to hearsay, authenticity and relevance. Outside period of infringement. Does not go to the issue of damages. Fed. R. Evid. 401, 802, 901.
107	Original Tables	Objection as to authenticity and relevance. Does not go to the issue of damages. Fed. R. Evid. 104, 401, 802, 901.
108	SQL	Objection as to authenticity and relevance. Does not go to the issue of damages. Fed. R. Evid. 104, 401, 802, 901.
109	Kmart Tshirts in Containers	Objection as to hearsay, authenticity and relevance. Outside period of infringement. Does not go to the issue of damages. Fed. R. Evid. 401, 802, 901.
110	Noa to HR from Hawaiian Express	Objection as to hearsay, authenticity and relevance. Outside period of infringement. Does not go to the issue of damages. Fed. R. Evid. 401, 802, 901.
111	Certified Copy of Fleming Bankruptcy MORS	Objection as to relevance. Monthly operating reports do not show underlying financial statements for Fleming's Kapolei operations. Fed. R. Evid. 401.
112	Certified Copy of C&S Pro-forma	Objection as to relevance. C&S Pro Forma statements do not show financials for C&S Logistics of Hawaii LLC for relevant period of time of April 1, 2003 to June 9, 2003 but rather numbers for year ending August 2004. Fed. R. Evid. 401

NO.	PLAINTIFF'S DESCRIPTION	OBJECTION
113	Certified Copy of Texas SEC Litigation Cross Complaint	Objection as to relevance. Fed. R. Evid. 401. At the motions in limine hearing held on January 20, 2006, the Court ruled that any reference at trial to the Texas lawsuit was excluded. See Jan. 20, 2006 Transcript of Hearing at 53-57. The Texas lawsuit deals with different financials than the ones at issue here for a different period of time and when the company was under different management post-petition.
114	Freight in costs of goods sold in military	Objection as to hearsay, authenticity and relevance. Outside period of infringement. Does not go to the issue of damages. Fed. R. Evid. 401, 802, 901.
115	Jackies Handbook from email Jackies Handbook	Objection as to authenticity and relevance. Fed. R. Evid. 401, 802, 901.
116	Teresas Handbook from email Logistic Coordinator Position	Objection as to authenticity and relevance. Fed. R. Evid. 401, 802, 901.
117	Total Access Detective Compare Capozzola Copy to Original FCS	Objection as to authenticity and relevance. Does not assist the trier of fact on the issue of damages. Fed. R. Evid. 401, 402, 403, 901. The document is affirmatively misleading and Plaintiff lacks foundation and appropriate expert testimony with which to introduce this exhibit. Fed. R. Evid. 402, 601-602, 701-702.

NO.	PLAINTIFF'S DESCRIPTION	OBJECTION
118	Dillon 9/30/04 Affidavit	Objection as to relevance. Does not go to the issue of damages. No evidence that Berry's database plays any role in setting prices for goods. Fed. R. Evid. 401, 402, 403.

Dated: Honolulu, Hawaii, January 24, 2006.

KOBAYASHI SUGITA & GODA


 LEX R. SMITH
 THOMAS H. YEE

KIRKLAND & ELLIS LLP

MICHAEL BAUMANN
 DAMIAN D. CAPOZZOLA
 R. OLIVIA SAMAD

Attorneys for Defendant
 POST-CONFIRMATION TRUST

LYLE S. HOSODA & ASSOCIATES, LLC

/s/ Raina P.B. Mead
 LYLE S. HOSODA
 RAINA P.B. MEAD

Attorneys for Defendants
 MARK DILLON, TERESA NOA,
 MELVIN PONCE, SONIA PURDY,
 JUSTIN FUKUMOTO, ALFREDDA
 WAIOLAMA, and JACQUELINE RIO